

COMPLAINT INVESTIGATION SUMMARY

COMPLAINT NUMBER:	1960.02
COMPLAINT INVESTIGATOR:	Connie Rahe
DATE OF COMPLAINT:	October 2, 2002
DATE OF REPORT:	November 1, 2002
REQUEST FOR RECONSIDERATION:	no
DATE OF CLOSURE:	November 25, 2002

COMPLAINT ISSUES:

Whether the Metropolitan School District of Lawrence Township violated:

511 IAC 7-22-2 by failing to provide written notice to the parent within a reasonable time before the school refused to consider specific methodologies to be included in the student's individualized education program (IEP).

511 IAC 7-27-3(a)(4) by failing to include one of the student's general education teachers at case conference committee (CCC) meetings held on April 24 and September 26, 2002.

511 IAC 7-27-4 by failing to utilize the CCC:

- a. To determine whether a trained aide will be provided for the student; and
- b. To determine a behavioral intervention plan (BIP).

511 IAC 7-27-4(c) by unilaterally changing the student's goals and objectives in the Student's IEP after the CCC has convened.

511 IAC 7-27-2(a) by failing to schedule a CCC meeting at a mutually agreed-upon date and time.

511 IAC 7-27-7(a) by failing to implement the student's IEP as written, specifically, failing to complete the alternate assessment and provide the parents with an assessment report.

FINDINGS OF FACT:

1. The Student is 14 years of age, is enrolled in grade eight, and has been determined eligible for special education and related services under the category of autism with moderate mental disability and communication disorder.
2. At the CCC convened on April 24, 2002, the complainants requested certain methodologies be written into the Student's IEP. The school declined to include the methodologies in the IEP during the CCC meeting. The Complainant signed the Student's IEP on April 29, 2002, indicating her agreement with and consent to its implementation. However, The Complainant asserts that the school was required to provide her with written notice, prior to the April 24th CCC, that the school would not include specific methodologies in the Student's IEP, and that such prior written notice was not provided.

3. No general education teachers were included in the CCC meetings of April 24, 2002, and September 26, 2002. The Student's IEP states that the Student will participate in a separate classroom with special education and related services, and states the Student will not participate in general education classes because the Student requires a full-time life skills (special education) program.
4. The Student's IEP, dated April 24, 2002, states that "the one-to-one behaviorally trained instructional assistant, who has previously been trained in autism and behavior related to autism, will provide adult supervision across all settings for the Student." Neither the CCC Summary nor IEP reflect any discussion of a specific type of training to be provided to the instructional assistant.
5. At the April 24, 2002, CCC meeting, the committee addressed the need to conduct a functional behavioral assessment (FBA) and develop a BIP for the Student. The IEP developed that date included a plan to hire an outside consultant to assist the school with the FBA and the BIP. The CCC developed a BIP at the September 26, 2002, CCC meeting and incorporated the BIP into the Student's IEP.
6. The Complainant asserts that the goals and objectives in the Student's IEP were unilaterally changed by the school subsequent to the April 24, 2002, CCC meeting. Although the Complainant met with school personnel on April 29, 2002, to discuss some generic language to be included in the Student's IEP, the school made no unilateral changes to the Student's IEP prior or subsequent to the Complainant's signature on the IEP on April 29, 2002.
7. On April 11, 2002, the school sent the Complainant notice scheduling a CCC at 9:00 a.m. on April 12, 2002. The Complainant signed the notice and returned it to the school, indicating her agreement with the arrangements for the CCC meeting. On September 13, 2002, the school sent the Complainant notice scheduling a CCC on September 26, 2002. The Complainant did not sign or return this notice until September 26, 2002; however, prior to that time, the school, via telephone contact, confirmed the Complainant's agreement with and intent to participate in the September 26th CCC meeting.
8. The IEP dated April 24, 2002 states that the Student will not participate in statewide testing. The IEP states that the Student will participate in an alternative assessment. The specified alternative assessment is a computer program that provides an assessment of the Student's achievement through ratings of essential skills and academic standards. The Student is in one of the grades for which the statewide assessment is administered and a student report is generated. The School collected the student's data on a disc and provided the data to the State Department of Education so that an individual report will be developed and sent to the Student's parents and teacher. This report is issued between December and January in the school year.

CONCLUSIONS:

1. Finding of Fact #2 reflects the Complainant's assertion that she was entitled to prior written notice that the school would decline to include methodologies when the CCC developed the Student's IEP on April 24, 2002. 511 IAC 7-22-2 requires the school to provide prior written notice before the school proposes or refuses to initiate or change the identification, evaluation, special education placement or the provision of a free appropriate public education to a student. The school is not required to provide written notice to a parent, prior to a CCC, describing what school will or will not consider during the course of a subsequent CCC meeting or development of an IEP. Therefore, no violation of 511 IAC 7-22-2 is found. Further, pursuant to 511 IAC 7-27-4(e), methodologies are not required to be included in a student's IEP. Any disagreement about the need to include methodologies in the Student's IEP is subject to resolution through mediation or a due process hearing.

2. Finding of Fact #3 indicates that, because the Student was not participating in or expected to participate in general education, no general education teacher was required to participate in the CCC meetings. Therefore, no violation of 511 IAC 7-27-3(a)(4) is found.
3. Pursuant to 511 IAC 7-27-4(c), determining the Student's need for an instructional assistant and developing a BIP as part of the development or revision of an IEP are responsibilities of the CCC. Findings of Fact #4 and #5 demonstrate that the CCC determined the need for a trained instructional assistant for the Student and developed a BIP at CCC meetings convened on April 24 and September 26, 2002, respectively. Therefore, no violation of 511 IAC 7-27-4 is found.
4. Finding of Fact #6 indicates that the school made no unilateral changes to the Student's IEP subsequent to the CCC meeting. Therefore, no violation of 511 IAC 7-27-4(c) is found.
5. Finding of Fact #7 indicates that the School provided the Complainant with opportunities to change the CCC meeting time, date, and place, and communicated by notification letter and phone. Therefore, no violation of 511 IAC 7-27-2(a) is found.
6. Finding of Fact #8 reflects that the Student's IEP required the Student to participate in an alternate assessment, rather than the statewide testing program. The alternate assessment has been completed, and information has been submitted to the Department of Education. The report to be generated by the State from the alternate assessment is scheduled to be available within the next three months. The IEP does not specify a date for delivery of the alternate assessment report. Therefore, no violation of 511 IAC 7-27-7(a) is found.

The Department of Education, Division of Exceptional Learners requires no corrective action based on the Findings of Fact and Conclusions listed above.